

BEFORE THE ARKANSAS SECURITIES COMMISSIONER

CASE NO. S-17-0116

ORDER NO. S-17-0116-18-OR02

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ARKANSAS SECURITIES DEPT.

IN THE MATTER OF:

**OSIRISO ISLAM and
DESIACS SANDWICHES**

RESPONDENTS

CEASE AND DESIST ORDER

On February 23, 2018 the Staff of the Arkansas Securities Department ("Staff") filed its Request for Cease and Desist Order ("Request"). In its Request, the Staff states that it has certain information and has in its possession certain evidence indicating that Osiriso Islam ("Islam") and Desiacs Sandwiches ("Desiacs") have violated provisions of the Arkansas Securities Act ("Act"), Ark. Code Ann. §§ 23-42-101 through 23-42-509. The Arkansas Securities Commissioner ("Commissioner") has reviewed the Request and based upon the representations made therein finds that:

FINDINGS OF FACT

1. Islam is a resident of Little Rock, Arkansas and is not registered with the Arkansas Securities Department ("Department") in any capacity pursuant to the Act. On March 3, 2009, Islam entered a guilty plea in the Circuit Court of Pulaski County, Arkansas in case no. CR 2008-2337 to the charge of theft of property and was sentenced to ten years of probation and ordered to pay restitution in the amount of \$60,000.00 to the victim at a rate of \$500.00 per month. On May 18, 2017, an Amended Petition for Revocation was filed by the Pulaski County Prosecutor against Islam for failing to report, failing to pay court costs, failing to pay supervisory fees, failing to pay restitution and failing to provide his supervising officer with current contact information. There is currently an outstanding bench warrant for Islam in relation to case no. CR-2008-2337.

2. Desiacs is the business trade name for an unincorporated entity through which Islam owns and operates a food truck typically located in Little Rock, Arkansas. According to the Arkansas State Board of Health, Desiacs is a retail food establishment located at 5108 Primrose Lane, Little Rock, AR 72209. Desiacs is neither registered with the Arkansas Secretary of State nor is it registered with the Department in any capacity pursuant to the Act.

3. On August 8, 2017, the Department received a complaint from an Arkansas resident ("AR1") against Islam and Desiacs. AR1 provided the Department with evidence that AR1 entered into an investment contract with Islam regarding an investment in Desiacs. A copy of the investment contract was attached to the Request as Exhibit "A." Per the terms of the investment contract, AR1 was to invest \$1,000.00 in Desiacs for a 100% return over the course of two months. The investment contract was executed by Islam and AR1 on November 17, 2015. Per the investment contract, Islam was to pay AR1 \$2,000.00 on or before January 17, 2016. As of the date of the entry of this Order no payments have been made to AR1 in relation to the investment contract.

4. In addition to the complaint received from AR1, the Department received a complaint against Islam and Desiacs from an individual residing in Atlanta, Georgia ("GA1"). GA1 provided the Department with an investment contract that GA1 entered into with Islam regarding an investment in Desiacs. A copy of the investment contract was attached to the Request as Exhibit "B." Per the investment contract, GA1 invested \$5,000.00 in Desiacs and was to receive 30% of the net income generated by Desiacs. Despite multiple attempts to collect on the monies owed, GA1 has yet to receive payment as outlined in the investment contract.

5. Islam and Desiacs made repeated omissions of material information about the securities offered and sold to AR1 and GA1. Specifically, Islam and Desiacs failed to provide

access to information concerning the business; disclose material information to investors regarding the risks associated with investing; as well as the operating costs of the business. Prior to making a decision to invest, any reasonable investor would want to have detailed and accurate information regarding the business, the risks associated with investing, and the operating expenses.

6. In addition to failing to disclose needed information and risks about the investment, Islam and Desiacs also failed to disclose Islam's criminal history to AR1 and GA1. Any reasonable investor would want to know about the relevant criminal history of any individuals associated with the company prior to investing.

7. On November 13, 2017, Islam was served Subpoena No. S-17-0116-SU01 issued by the Department. A copy of Subpoena No. S-17-0116-SU01 was attached to the Request as Exhibit "C." A copy of the affidavit of service of Subpoena No. S-17-0116-SU01 was attached to the Request as Exhibit "D." Per the subpoena, Islam was scheduled to appear and testify before the Department in relation to the complaints that had been filed against him and Desiacs, as well as produce documents in relation to Desiacs and the above referenced investments. However, Islam failed to appear for the deposition and also failed to produce the requested documents.

8. Islam and Desiacs did not register or obtain any exemption from registration from the Department or the United States Securities and Exchange Commission for any of the securities offered and sold to AR1 and GA1.

9. Islam and Desiacs did not file any paperwork necessary for any of the securities it or he offered and sold to AR1 and GA1 to be recognized as covered securities under any federal securities statute or the Act.

APPLICABLE LAW

10. Ark. Code Ann. § 23-42-102(17)(A)(xi) defines an investment contract as a security.

11. Ark. Code Ann. § 23-42-501 provides that it is unlawful for any person to offer or sell any security in this state unless it is registered, exempt or a covered security.

12. Ark. Code Ann. § 23-42-507(2) makes it unlawful for any person, in connection with the offer, sale, or purchase of any security, directly or indirectly, to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading.

CONCLUSIONS OF LAW

13. The subject investment contracts issued and sold by Islam to investors constitute securities pursuant to Ark. Code Ann. § 23-42-102(17)(A)(xi). The securities were advertised, offered, and negotiated on the premise that AR1 and GA1 would receive economic benefits in the form of returns on their capital investment. The investors contributed to the risk capital of Islam and Desiacs. The money invested was always subject to the risk that Islam and Desiacs would not fulfill promises and the investors would not receive the returns advertised. AR1 and GA1 had no control over the “business strategy” employed by Islam and Desiacs which was necessary to generate the returns on investments. The securities were advertised, marketed, and sold as the types of investments that the Act is intended to govern. Therefore, the subject investment contracts are securities under Ark. Code Ann. § 23-42-102(17)(A)(xi).

14. Islam and Desiacs did not properly register any securities, file for any exemption, or make any notice filing concerning any covered securities with the Department regarding the securities offered and sold to AR1 and GA1. The offer and sale of unregistered and non-exempt

securities to AR1 and GA1 constituted violations of Ark. Code Ann. § 23-42-501 by Islam and Desiacs.

15. Islam and Desiacs committed securities fraud in violation of Ark. Code Ann. § 23-42-507(2) by failing to disclose to AR1 and GA1 prior to the time of their investments that Islam had previously pleaded guilty to the crime of theft of property in the Circuit Court of Pulaski County, Arkansas and had been sentenced to serve ten years probation and to make restitution payments totaling \$60,000.00. Islam and Desiacs thus omitted to provide material information that would have been viewed by a reasonable investor as significant in deciding whether to invest, and omitted to state a material fact necessary to make statements made, in light of the circumstances under which they were made, not misleading.

16. Further, Islam and Desiacs committed securities fraud in violation of Ark. Code Ann. § 23-42-507(2) by failing to disclose to AR1 and GA1 material information regarding the business, risks associated with investing, as well as the operating costs of the business. Islam and Desiacs thus omitted to provide material information that would have been viewed by a reasonable investor as significant in deciding whether to invest, and omitted to state a material fact necessary to make statements made, in light of the circumstances under which they were made, not misleading.

ORDER

17. Respondents shall immediately cease and desist from further violations of Ark. Code Ann. § 23-42-507(2), and refrain from defrauding investors.

18. Respondents shall immediately cease and desist from further violations of Ark. Code Ann. § 23-42-501, and refrain from conducting business in Arkansas until such time that the


securities are properly registered pursuant to the Act, exempt from registration, or a covered security.

19. A hearing on this Cease and Desist Order shall be held if requested by either of the Respondents in writing within thirty (30) days of the entry of this Order, or if otherwise ordered by the Commissioner. Ark. Code Ann. § 23-42-209(a)(2)(A). Such request should be addressed to the Commissioner and submitted to the following address:

Arkansas Securities Commissioner
201 East Markham Street, Suite 300
Little Rock, Arkansas 72201

20. If no hearing is requested and none is ordered by the Commissioner, this Cease and Desist Order will remain in effect until it is modified or vacated by the Commissioner. Ark. Code Ann. § 23-42-209(a)(2)(B).

Dated this 23 day of February 23, 2018.


B. Edmond Waters
Arkansas Securities Commissioner